

EXHIBIT J

LAW OFFICES

MANOLIO & FIRESTONE, PLC

8674 E. San Alberto Drive

Scottsdale, Arizona 85258

(480) 222-9100

vmanolio@mf-firm.com

Veronica L. Manolio, SBN 020230

Attorneys for Tucker Defendants, Counterclaimants,

And Third-Party Claimants

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF ARIZONA

Labor Smart, Inc.

Plaintiff,

v.

Jason and Melissa Tucker,

Defendants.

And related Counterclaims
and Third-Party Claims.

Case No. 2:22-cv-00357-PHX-DJH

**JASON TUCKER'S RESPONSE TO
LTNC'S FIRST SET OF
NON-UNIFORM
INTERROGATORIES**

(Before the Hon. D. Humetewa)

Pursuant to Federal Rules of Civil Procedure, Rules 33, Third-Party Plaintiff Jason Tucker responds to Counterdefendant LTNC's First Set of Non-Uniform Interrogatories.

NON-UNIFORM INTERROGATORIES

INTERROGATORY NO. 1: Please identify with specificity the "other notables including MMA Champions, NFL players, and various celebrities", as set forth in paragraph 23 of the Amended Claims.

RESPONSE: These include at least Anthony Pettis (and SHOWTIME Fighting Championship, LLC), Jessie Vargas, Dan Caldwell, Sean Stellato, Mitchell Tenpenny, and "ambassadors" with the PFL (Professional Fighters League), and online gamers

1 **INTERROGATORY NO. 13:** Please state with specificity the amount of the
2 “financial obligations” and “compensation” Takeover allegedly owed Tucker, as set forth
3 in paragraph 93 of the Amended Claims.

4 **RESPONSE:** The Tuckers read this Interrogatory as solely asking for the amount
5 of salary/pay/compensation due to Jason Tucker, as referred to in Paragraph 93 of the
6 Amended Claims. If this request is meant to understand the amount of outstanding
7 salary/pay due to Tucker (through his individually-owned LLC), the amounts are \$60,000
8 for the calendar year 2021 (*see*, TUCKER001016) and \$175,000 for the calendar year
9 2022 (*see*, TUCKER000994-001006, 001015).¹

10 To the extent the Tuckers misinterpret this Interrogatory and that Labor Smart
11 seeks to know any other category of damages in this question, the Tuckers reserve the
12 right to supplement this response.

13
14 **INTERROGATORY NO. 14:** Please state with specificity the factual basis for
15 the claims that “LTNC knowingly and intentionally assisted, encouraged, participated, or
16 caused ... Holley, McBride, and Pavlik to breach fiduciary duties owed to Tucker”, as set
17 forth in paragraph 94(a) of the Amended Claims.

18 **RESPONSE:** The Tuckers object to this Interrogatory as Paragraph 94(a)
19 specifically deals with actions taken by Labor Smart in Aiding and Abetting misconduct.
20 The Court has already dismissed certain portions of this Counterclaim III. (Doc. 189),
21 and the Tuckers believe this Interrogatory is propounded solely for harassment.

22 Without waiving their objections, if this request is meant to understand how Labor
23 Smart knowingly and intentionally assisted, encouraged, participated, or caused Holley,

24 _____
25 ¹ Alternatively, Tucker is entitled to receive amounts that are equal to those that Holley
26 and McBride took for themselves. The proper amounts, if more than the agreed-upon
\$20,000 per month, will be supplemented once the outstanding discovery is completed.

1 McBride, and Pavlik to breach their fiduciary duties when helping them shut down
2 Takeover and re-open under NextGen (which is the part of the Counterclaim III that
3 survived dismissal), the factual basis can be found in *at least* the following:

4 Labor Smart, as an entity, and through management of more than just these Third-
5 Party Defendants acted to “align” themselves and to remove Jason Tucker from voting
6 and participation in Labor Smart while he was still a Director and owned Preferred
7 (Voting) Shares. Labor Smart, through the help of Tom Zarro (not a Labor Smart
8 Director at that time) and Luis Sequeira (also not a Director at that time), and other
9 shareholders, aided Holley, McBride and Pavlik (and Takeover) in the following ways:

- 10 A) To settle personal claims against them in the Florida Lawsuit by pledging
11 Takeover and Labor Smart assets that were not theirs to pledge;
- 12 B) To enter into various dismissals/releases of claims of one another, to pay
13 Holley \$5,000 from Takeover funds for “settlement” in this lawsuit;
- 14 C) To fail paying known debt of Takeover when due, including the significant
15 earned salary/compensation that was known to be due to Tucker (at least
16 \$60,000 + \$175,000, *but see*, fn. 1, *supra*.);
- 17 D) To place Jason Tucker on “paid leave” but then fail to pay him;
- 18 E) To dispute debt Takeover knowingly owed to James Deppoleto, Jr.;
- 19 F) To incur significant attorneys’ fees and costs for Takeover;
- 20 G) While significant debt was incurred for Takeover (as noted above), to create a
21 new entity (NextGen Beverages);
- 22 H) NextGen purchased Takeover product under value;
- 23 I) Takeover transferred its intellectual property (including product formulas,
24 website(s)/online accounts, and copyrights) to NextGen;
- 25 J) Takeover made repeated cash transfers to NextGen without consideration;
- 26 K) Takeover consulted Bankruptcy counsel (and even paid a retainer fee); and
- L) Once Takeover had judgment entered against it in the Nevada Lawsuit,
Takeover filed Bankruptcy proceedings in Nevada.

1 Labor Smart clearly aided and abetting the formation of NextGen, as evidenced by
2 its online announcement(s) and continued “advertisement” of the new entity replacing
3 Takeover. Labor Smart director(s) knew they were leaving Takeover as a “shell” and
4 that they transferred anything and everything of value into NextGen.

5 Labor Smart also clearly aided and abetting in the process, timing and eventual
6 bankruptcy of Takeover, allowing the Third-Party Defendants to cause the Tuckers harm.

7 This Response may be supplemented as Labor Smart has outstanding discovery to
8 answer and has yet to produce a single piece of paper in this litigation. If additional facts
9 or documents are discovered, the Tuckers intend to supplement.

10
11 **INTERROGATORY NO. 15:** Please state with specificity the factual basis for
12 the claims that “LTNC knowingly and intentionally assisted, encouraged, participated, or
13 caused ... Holley, McBride, and Pavlik to interfere with Tucker’s voting rights and
14 Takeover” as set forth in paragraph 94(b) of the Amended Claims.

15 **RESPONSE:** See, Response No. 14 above, which should be incorporated here to
16 mean that while Jason Tucker remained a 25% owner/shareholder in Takeover, he was
17 not permitted any right(s) to vote nor any decision-making ability. Labor Smart, as an
18 entity and with the Third-Party Defendants acting in their own best interests/personal
19 capacities, each made sure that Takeover was systematically dismantled and Jason
20 Tucker was not permitted to conduct Takeover business or lodge votes.

21
22 **INTERROGATORY NO. 16:** Please state with specificity the factual basis for
23 the claims that “LTNC knowingly and intentionally assisted, encouraged, participated, or
24 caused ... Holley, McBride, Pavlik, and Takeover to deprive Tucker of payments owed to
25 him by Takeover”, as set forth in paragraph 94(c) of the Amended Claims.

26 **RESPONSE:** See, Response Nos. 13-15.